S.B. CIVIL WRIT PETITION NO.6403/2003
(Narendra Singh vs. The Municipal Board & Ors.)

Date :: 07.05.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.S.G. Ojha, for the petitioner.
Mr.S.N. Tiwari, Dy. Govt. Advocate.
Mr.L.R. Choudhary, for the respondents.

By way of filing present writ petition, the petitioner is challenging the order dated 09th December, 2002 (Annexue-6) passed by the Assistant Collector (S.D.O.), Jalore.

A preliminary objection has been raised by learned counsel for the respondent No.2 that against the impugned judgment and decree passed on 30th March, 2002, remedy lies before the Revenue Appellate Authority by way of filing appeal and the petitioner has already availed the said remedy, which is not disputed by the petitioner. However, the petitioner instead of waiting for the decision of learned Revenue Appellate Authority has straightaway approached this Hon'ble Court by way of filing present writ petition for the same relief. Thus, the instant petition being premature deserves to be dismissed.

Second preliminary objection raised by the respondent No.2 that the petitioner has preferred a civil suit before the learned Civil Judge (Junior Division), Jalore for permanent injunction against the answering respondent No.2 and the said suit is still pending before the learned trial court. Thus, on this count also the petition deserves to be dismissed.

Learned counsel for the petitioner does not dispute the position that civil suit is still pending before the court of Civil Judge (Junior Division), Jalore for the same relief.

In this view of the matter, when the civil suit is pending before the trial court with regard to same relief as claimed in the present writ petition, this petition is not maintainable.

Accordingly, the petition is dismissed. However, the petitioner may avail the remedy before the civil court for adjudication of the controversy.

{GOPAL KRISHAN VYAS}, J.

A.K. Chouhan/-